

**Meeting of the Central Valley Flood Protection Board
March 27, 2009**

**Draft Staff Report
DWR Floodway Protection Section**

Item

Consider approval of Permit No. 18389 (Attachment A) to install a fiber optic cable across channel and attach to existing utility poles on each side of Duck Creek in San Joaquin County.

Applicant

Sunesys, LLC

Location

The project is located in Stockton, west of Highway 99. (Duck Creek, San Joaquin County see Attachment B).

Description

To install a fiber optic cable across channel and attach to existing utility poles on each side of Duck Creek in San Joaquin County.

Agency Comments and Endorsements:

- The U. S. Army Corps of Engineers has endorsed this project in a letter dated February 20, 2009 (Permit Exhibit B).
- San Joaquin County Flood Control & Water Conservation District has endorsed this project in a letter dated June 24, 2008 (Permit Exhibit A).

Proposed CEQA Determination of Exemption:

Board staff has prepared the following CEQA determination:

The California Public Utilities Commission (PUC), as lead agency under CEQA, approved the project (Stockton Unified School District Network, SCH #20080978011) on August 27, 2008 and determined that the project was categorically exempt under Classes 15301b/c (existing facilities), 15302c/d (replacement or reconstruction), 15303d (utility extensions) and 15304f (minor trenching or backfilling).

The Board, acting as a responsible agency under CEQA, has reviewed the PUC determination and has independently determined that the project is exempt from CEQA under Classes 15301b/c (existing facilities), 15302c/d (replacement or reconstruction), 15303d (utility extensions) and 15304f (minor trenching or backfilling).

Section 8610.5 Compliance

1. Evidence that the Board admits into its record from any party, State or local public agency, or nongovernmental organization with expertise in flood or flood plain management:

The Board will make its decision based on the evidence in the permit application and attachments, this staff report, and any other evidence presented by any individual or group.

2. The best available science that related to the scientific issues presented by the executive officer, legal counsel, the Department or other parties that raise credible scientific issues.

The accepted industry standards for the work proposed under this permit as regulated by Title 23 have been applied to the review of this permit.

3. Effects of the decision on the entire State Plan of Flood Control:

This project has no effects on the State Plan of Flood Control.

4. Effects of reasonable projected future events, including, but not limited to, changes in hydrology, climate, and development within the applicable watershed:

None.

Staff Recommendation

Staff recommends that the Board determine the project to be exempt from CEQA and to approve the permit.

List of Attachments

- A. Permit
- B. Location maps and photos

DRAFT

STATE OF CALIFORNIA
THE RESOURCES AGENCY
CENTRAL VALLEY FLOOD PROTECTION BOARD

PERMIT NO. 18389 BD

This Permit is issued to:

Sunesys, LLC
3550 Charter Park Drive
San Jose, California 95136

To install a fiber optic cable across channel and attach to existing utility poles on each side of Duck Creek. The project is located in Stockton, west of Highway 99 (Section 19, T1N, R7E, MDB&M, San Joaquin County Flood Control and Water Conservation District, Duck Creek, San Joaquin County).

NOTE: Special Conditions have been incorporated herein which may place limitations on and/or require modification of your proposed project described above.

(SEAL)

Dated: _____

Executive Officer

GENERAL CONDITIONS:

ONE: This permit is issued under the provisions of Sections 8700 – 8723 of the Water Code.

TWO: Only work described in the subject application is authorized hereby.

THREE: This permit does not grant a right to use or construct works on land owned by the Sacramento and San Joaquin Drainage District or on any other land.

FOUR: The approved work shall be accomplished under the direction and supervision of the State Department of Water Resources, and the permittee shall conform to all requirements of the Department and the Central Valley Flood Protection Board.

FIVE: Unless the work herein contemplated shall have been commenced within one year after issuance of this permit, the Board reserves the right to change any conditions in this permit as may be consistent with current flood control standards and policies of the Central Valley Flood Protection Board.

SIX: This permit shall remain in effect until revoked. In the event any conditions in this permit are not complied with, it may be revoked on 15 day's notice.

SEVEN: It is understood and agreed to by the permittee that the start of any work under this permit shall constitute an acceptance of the conditions in this permit and an agreement to perform work in accordance therewith.

EIGHT: This permit does not establish any precedent with respect to any other application received by the Central Valley Flood Protection Board.

NINE: The permittee shall, when required by law, secure the written order or consent from all other public agencies having jurisdiction.

TEN: The permittee is responsible for all personal liability and property damage which may arise out of failure on the permittee's part to perform the obligations under this permit. If any claim of liability is made against the State of California, or any departments thereof, the United States of America, a local district or other maintaining agencies and the officers, agents or employees thereof, the permittee shall defend and shall hold each of them harmless from each claim.

ELEVEN: The permittee shall exercise reasonable care to operate and maintain any work authorized herein to preclude injury to or damage to any works necessary to any plan of flood control adopted by the Board or the Legislature, or interfere with the successful execution, functioning or operation of any plan of flood control adopted by the Board or the Legislature.

TWELVE: Should any of the work not conform to the conditions of this permit, the permittee, upon order of the Central Valley Flood Protection Board, shall in the manner prescribed by the Board be responsible for the cost and expense to remove, alter, relocate, or reconstruct all or any part of the work herein approved.

SPECIAL CONDITIONS FOR PERMIT NO. 18389 BD

THIRTEEN: All work approved by this permit shall be in accordance with the submitted drawings and specifications except as modified by special permit conditions herein. No further work, other than that approved by this permit, shall be done in the area without prior approval of the Central Valley Flood Protection Board.

FOURTEEN: The permittee is responsible for all liability associated with construction, operation, and maintenance of the permitted facilities and shall defend and hold harmless the State of California, or any departments thereof, from any liability or claims of liability associated therewith.

FIFTEEN: The Central Valley Flood Protection Board, Department of Water Resources, and San Joaquin County Flood Control & Water Conservation District shall not be held liable for any damages to the permitted encroachment(s) resulting from flood fight, operation, maintenance, inspection, or emergency repair.

SIXTEEN: The permittee may be required, at permittee's cost and expense, to remove, alter, relocate, or reconstruct all or any part of the permitted encroachment(s) if removal, alteration, relocation, or reconstruction is necessary as part of or in conjunction with any present or future flood control plan or project or if damaged by any cause. If the permittee does not comply, the Central Valley Flood Protection Board may remove the encroachment(s) at the permittee's expense.

SEVENTEEN: The permitted encroachment(s) shall not interfere with operation and maintenance of the flood control project. If the permitted encroachment(s) are determined by any agency responsible for operation or maintenance of the flood control project to interfere, the permittee shall be required, at permittee's cost and expense, to modify or remove the permitted encroachment(s) under direction of the Central Valley Flood Protection Board or Department of Water Resources. If the permittee does not comply, the Central Valley Flood Protection Board may modify or remove the

encroachment(s) at the permittee's expense.

EIGHTEEN: The permittee shall be responsible for repair of any damages to the Duck Creek levees and other flood control facilities due to construction, operation, or maintenance of the proposed project.

NINETEEN: The permittee shall contact the Department of Water Resources by telephone, (916) 574-1213, and submit the enclosed postcard to schedule a preconstruction conference. Failure to do so at least 10 working days prior to start of work may result in delay of the project.

TWENTY: No construction work of any kind shall be done during the flood season from November 1 to April 15 without prior approval of the Central Valley Flood Protection Board.

TWENTY-ONE: A minimum clearance of 21 feet shall be provided between the levee crowns and the overhead wire crossing.

TWENTY-TWO: All debris generated by this project shall be disposed of outside the Duck Creek channel.

TWENTY-THREE: The permittee shall maintain the permitted encroachment(s) and the project works within the utilized area in the manner required and as requested by the authorized representative of the Department of Water Resources or any other agency responsible for maintenance.

TWENTY-FOUR: The project site shall be restored to at least the condition that existed prior to commencement of work.

TWENTY-FIVE: If the project, or any portion thereof, is to be abandoned in the future, the permittee or successor shall abandon the project under direction of the Central Valley Flood Protection Board and Department of Water Resources, at the permittee's or successor's cost and expense.

TWENTY-SIX: The permittee shall comply with all conditions set forth in the letter from San Joaquin County Flood Control & Water Conservation District dated June 24, 2008, which is attached to this permit as Exhibit A and is incorporated by reference.

TWENTY-SEVEN: The permittee shall comply with all conditions set forth in the letter from the Department of the Army dated February 20, 2009, which is attached to this permit as Exhibit B and is incorporated by reference.

TWENTY-EIGHT: Any additional encroachment(s) require an approved permit from the Central Valley Flood Protection Board and shall be in compliance with the Central Valley Flood Protection Board's regulations (Title 23 California Code of Regulations).



SAN JOAQUIN COUNTY

FLOOD CONTROL & WATER CONSERVATION DISTRICT

P. O. BOX 1810

1810 EAST HAZELTON AVENUE
STOCKTON, CALIFORNIA 95201
TELEPHONE (209) 468-3000
FAX NO. (209) 468-2999

THOMAS R. FLINN
DIRECTOR OF PUBLIC WORKS
FLOOD CONTROL ENGINEER

June 24, 2008

The Central Valley Flood Protection Board
3310 El Camino Avenue
Sacramento, California 95821

Attention: Mr. Jon Yego, Chief
Floodway Protection Section

SUBJECT: CENTRAL VALLEY FLOOD PROTECTION BOARD PERMIT
APPLICATION NO. _____

Gentlemen:

Reference is made to the Central Valley Flood Protection Board Permit Application No. _____, of Datalog Engineering, to install fiber optic cable across the Calaveras River. A support cable will be installed, from utility pole to utility pole, across the river on the east side of the West Lane Bridge. Fiber optic cable will be lashed to the support cable.

The project is located on West Lane, 780 feet north of Enterprise Street in the City of Stockton, in San Joaquin County, in Section 29 of the C.M. Weber Grant. The parcel is identified as Assessor's Parcel No. 098-140-32.

The San Joaquin County Flood Control and Water Conservation District (District) has reviewed the Central Valley Flood Protection Board Permit Application No. _____, of Datalog Engineering, and endorses the project subject to the following conditions:

1. The Permittee shall be responsible for any damage to the Calaveras River and its levees that may occur as a result of the project.
2. The District shall not be responsible for any damage to the facilities due to the District's operation and maintenance of the Calaveras River.
3. The District shall not be responsible for maintenance of any facilities related to this project.
4. The Permittee shall be responsible for the modification, maintenance, or possible removal of any of the facilities, as requested by the District, if required for any future flood control plans at the applicant's sole cost and expense.

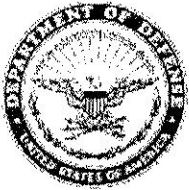
If there are any questions regarding these conditions, please contact John Corey, Engineer III, at (209) 468-3060.

Sincerely,

STEVEN WINKLER
Deputy Director/Operations

SW:SC:mk
FM-8F068-M1

c: John Corey, Engineer III



DEPARTMENT OF THE ARMY
U.S. Army Engineer District, Sacramento
Corps of Engineers
1325 J Street
Sacramento, California 95814-2922

REPLY TO
ATTENTION OF

Flood Protection and Navigation Section (18389)

Mr. Jay Punia, Executive Officer
Central Valley Flood Protection Board
3310 El Camino Ave., Rm. LL40
Sacramento, California 95821

FEB 20 2009

Dear Mr. Punia:

We have reviewed a permit application by Sunesys, LLC (application number 18389). These plans include installing a fiber optic cable across Duck Creek and attaching the cable to existing utility poles on either side. The project is located in Stockton, west of Highway 99, at 37.9251°N 121.2509°W NAD83, San Joaquin County, California.

The District Engineer has no objection to approval of this application by your Board from a flood control standpoint, subject to the following conditions:

- a. That the clearance above the access road and the proposed fiber optic cable crossing shall be at least 21-feet.
- b. That the proposed work site shall be restored to at least the same condition as existed prior to commencement of the proposed work.

A Section 10 and/or Section 404 permit may be required. Please advise the applicant to contact the U.S. Army Corps of Engineers, Sacramento District, Regulatory Division, 1325 J Street, Sacramento, California 95814, telephone (916) 557-5250.

If you have any questions concerning our comments on this permit application, please contact Mr. Ryan Larson at (916) 557-7568 or Mr. Robert Murakami at (916) 557-6738.

Sincerely,

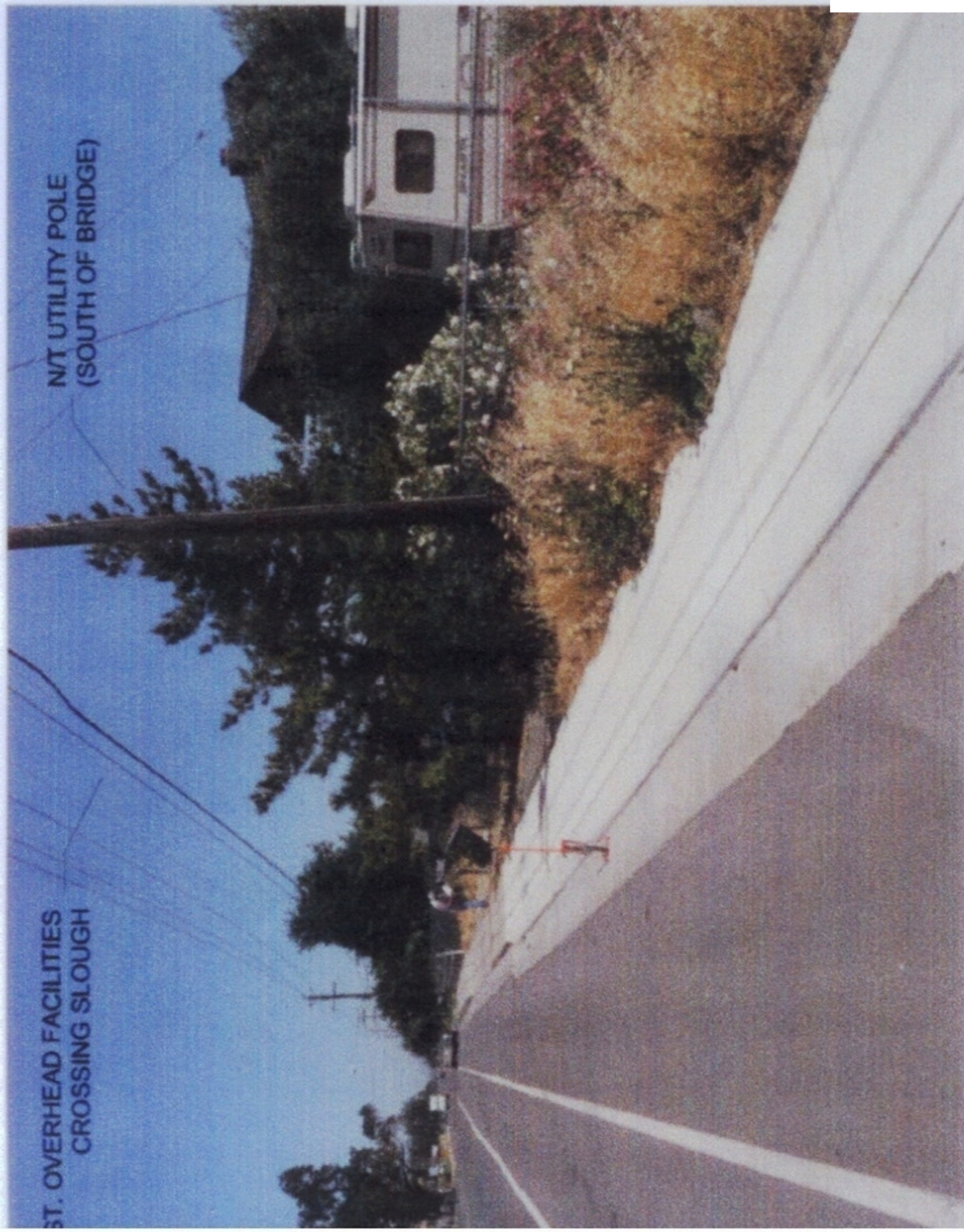
A handwritten signature in black ink, reading "Kevin Knuuti", is positioned above the printed name.

Kevin Knuuti, P.E.
Chief, Engineering Division

Copy Furnished:

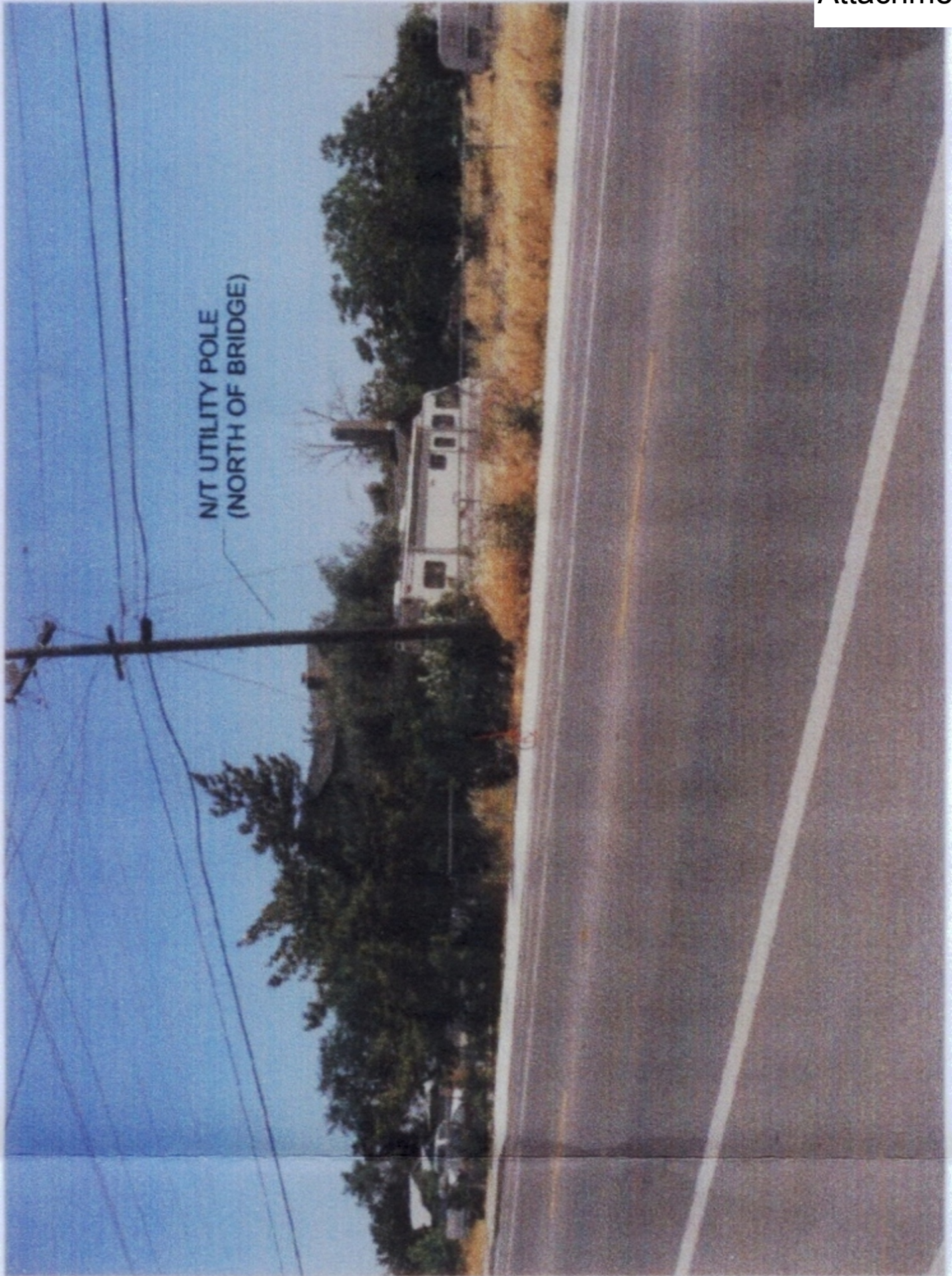
Mr. Jeremy Arrich, Chief, Flood Project Integrity and Inspection Branch,
3310 El Camino Ave., Suite LL30, Sacramento, CA 95821

JOB SITE



DETAIL

1



N/T UTILITY POLE
(NORTH OF BRIDGE)

DETAIL 2